

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE:

B-223164

DATE:

June 24, 1986

MATTER OF:

Sphere Industries, Inc.

DIGEST:

GAO will not review an agency's rejection of a small business offeror as nonresponsible where, following the agency's referral of the contracting officer's negative responsibility determination to the Small Business Administration (SBA), the offeror failed to file a timely application with the SBA for a certificate of competency.

Sphere Industries, Inc. (Sphere) protests the award of a contract under request for proposals (RFP) No. F24604-86-R0001 issued by the Department of the Air Force for maintenance and repair of facilities at Havre Air Force Base, Montana. The protest is dismissed.

The solicitation was issued on February 20, 1986. Following receipt of best and final offers on April 15, 1986, the agency conducted a preaward survey of Sphere, the apparent low offeror. Based on the results of that survey, the contracting officer determined the firm to be nonresponsible and, therefore, ineligible to receive award under the subject RFP. On May 1, 1986, the agency referred the contracting officer's negative responsibility determination to the Small Business Administration (SBA) for consideration under the SBA's certificate of competency (COC) procedures, in accordance with the provisions of 15 U.S.C. § 637(b)(7) (West Supp. 1985). The SBA requested that Sphere submit a COC application by May 15, 1986. When, after May 16, Sphere had not applied for a COC, the SBA informed the Air Force that it had closed its files in the case and directed the agency to proceed with the procurement.

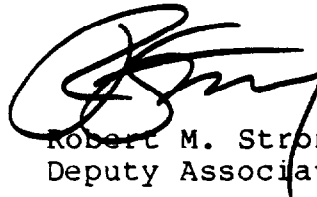
Sphere protests the agency's award of the contract on the basis that the SBA has not had adequate time to issue a COC.

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Where the procuring agency has referred the contracting officer's negative responsibility determination of a small business firm to the SBA as required by 15 U.S.C. § 637(b)(7), supra, for consideration under the SBA's COC procedures, it is the responsibility of the small business firm to file a complete and acceptable COC application with the SBA in order to avail itself of the possible protection provided by statute and regulations against unreasonable determinations by contracting officers as to its responsibility. Spectrum Enterprises, B-221202, Dec. 31, 1985, 86-1 C.P.D. ¶ 5 at 3. Where the firm then fails to file a timely application for a COC with the SBA, we will not question the contracting officer's negative responsibility determination since such a review would, in effect, amount to a substitution of this Office for the agency specifically authorized by statute to review these determinations. Ion Exchange Products, Inc., B-218578, B-218579, July 15, 1985, 85-2 C.P.D. ¶ 52 at 2-3.

Since this protest raises issues that are not reviewable by our Office, no useful purpose would be served by further development of this case pursuant to our Bid Protest Regulations, 4 C.F.R. § 21.3(f)(3) (1986).

The protest is dismissed.



Robert M. Strong
Deputy Associate General Counsel